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48 Sparks Street,
Ottawa 4, Ontario.

October 3, 1963.

The Ontario Committee on Taxation,
88 University Avenue,
TORONTO 1, Ontario.

Dear Sirs:

Re: Municipal Taxation
Re: Municipal Sewage Disposal Works

I am in receipt of your invitation to forward submissions on local taxes.

Recently the City of Ottawa, as the dominant participant in conjunction with some adjoining municipalities under pressure of the Ontario Water Resources Authority, completed a huge and costly sewage disposal system and plant. No one should object to this attempt being made to clean up our rivers and streams which have been and still are used as more or less open sewers.

1. These works are, in many cases, much more than of local municipal interest and should be supported and assisted by Provincial and Federal funds. If the Dominion and the Provinces are willing to help in the construction of such works starting with the main rivers and lakes that are either international or interprovincial, such as the St. Lawrence Deep Seaway and the Ottawa River, then they may eventually assist and guide all other municipalities. No doubt they are already doing so to a great extent by reason of winter works programmes, etc.

2. Our Governments, and particularly the Federal Government through its Central Housing and Mortgage Corporation, encourages the building of new separate, detached homes. Provinces and municipalities take great pride in their parks and in the gardens of the inhabitants.

In our climate, to have a garden, whether vegetables, flowers, green lawns, or bushes, requires a lot of watering, particularly during the months of June, July, August and September (depending on the weather - it could be May, June, July and August).

3. To amortize the capital cost and pay for maintenance of the new Ottawa area sewage disposal plant, the City and surrounding municipalities must raise the money annually. Instead of putting the whole of this annual cost directly into the tax rate, a scheme was recommended and adopted where all metered water bills (usually rendered quarterly or every two months) are being raised by approximately 42.12%. This covers only part of the annual cost; the balance will require something like one mill on the tax rate.

The result has been that a few of the people who know about this extra tax are not watering their lawns and gardens, which is too bad, while others who take pride in their green lawns, flowers and shrubs feel that this method of taxation is not directly connected with the sewage disposal system in that the vast majority of the water so used in gardens and lawns is absorbed by the plants or evaporates.

4. The first point is that little, if any, of the water so used on lawns and gardens ever gets into the sewers. The second point is that, on the one hand, our authorities seem to encourage private homes and gardens and on the other hand, such 42.12% imposition on water bills seems to be unfair to those who take pride in their lawns and gardens.

5. Although the local authorities state that only a small portion of the water consumed is for watering lawns and gardens, it is noted that, during the several hot spells that Ottawa has had this summer of 1963, ranging from five to ten days at a time, the water consumption has almost doubled and has reached a record rate and further there is now no restriction on the use of water.

6. As few people may have received their current water bills for this summer of 1963 since the new water tax was imposed, many of them do not yet realize how much more they must pay for the heavy consumption of water for these four summer months of June, July, August and September.

7. The alternative solution to putting the whole annual cost directly in the tax rate may be difficult to determine but it should not be impossible to do with the assistance of modern accounting machines. It is also realized that the laborious task of reading of water meters and the sending out of water bills is not all done in one day and that this process varies in different parts of the City and in adjoining municipalities.

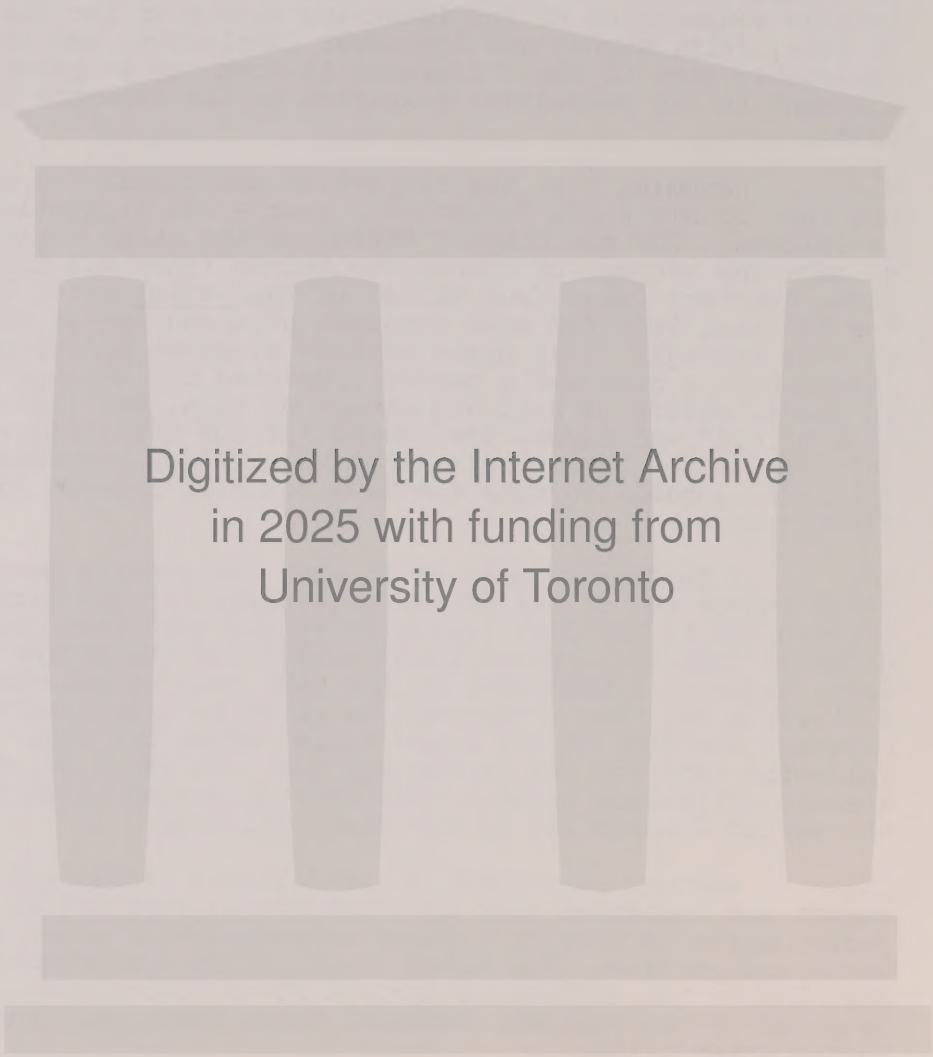
8. If the added tax on water consumption to pay for sewage disposal is to remain, what is required is something along the following lines: That the average monthly consumption of water over the immediate past year for the months of October to May (inclusive) should be compared with the average consumption of the immediate past year for the months of June, July, August and September (inclusive) and that a reasonable part of the difference in some way be given as a discount to the respective taxpayers in the separate detached homes.

9. Assuming that the respective municipalities send out four or six bills for water a year - one suggestion is as follows: For the City of Ottawa or the other municipalities to take the average of either two thirds (when six bills) or three quarters (when four bills) of the lowest water bills for the past year for each separate home and impose the 42.12% on that average. That might satisfy everyone including the people with a home and a garden. Granted the summers vary in the intensity of heat and amount of rain, but that is an "act of God" and beyond the control of our authorities. In the case of new homes, this might be difficult to determine but an acceptable formula for them could be imposed for the first year.

10. A further suggestion is that the average monthly water pumped out of the Ottawa waterworks for the period October 1st to May 31st inclusive in the past year should be deducted from the average water pumped for the months of June, July, August and September in the past year to determine the difference and that a discount be given to each separate detached dwelling on the water bills during the whole of the following year for the percentage that the above determined average difference bears to the average pumped monthly for the period October 1st to May 31st inclusive.

11. Another suggestion is as follows: June, July, August and September make up 1/3rd of the year during which period there is usually a heavy consumption of water on the lawns and gardens. One third of 42.12% is approximately 14%. Then 14% of the difference arrived at in (10) above should be given to the separate detached homes throughout the year on the water bills.

The above suggestions in (10) and (11), though not fully reimbursing the added tax against the individuals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who have a lawn and a garden, it would at least encourage them to continue to keep their lawns and gardens in proper condition.

It is realized that there may be discrepancies in the above suggestions and that due to differences in culture, everyone does not care about green lawns and gardens but these suggestions or some variation thereof would at least give the individual homeowner some encouragement to have and keep a garden and a green lawn. At present, the individual homeowner is bearing an unfair tax on the beauty of his lawn and garden to pay for sewage disposal for factories, office buildings, shops and apartment dwellers which latter mentioned use more or less the same amount of water throughout the year.

Yours very truly,

G. F. Maclaren, Q.C.

GFM:TEA

G. F. MACLAREN, Q.C.

DEATH TAXATION AND THE SMALLER PRIVATE BUSINESS IN CANADA

The position of Canadian privately-owned or family-controlled businesses has been and is seriously endangered, and a great many of such businesses have been and are being sold to large foreign corporations or large Canadian amalgamations. Unlike the independent Canadian owners or controllers of a private or family business built up in Canada, foreign-controlled corporate owners of Canadian companies never die. Therefore, on each take-over of a Canadian business by a foreign corporate ownership, the future and recurring potential of Estate Tax and Succession Duty is removed forever. Yet we find the Federal Government and the Provinces of Ontario and Quebec almost forcing this takeover by the vicious impact and almost immediate demand for payment of estate tax and succession duty imposed on the death of a resident Canadian who, over a lifetime, has built up a successful Canadian-owned business. In other words, the Government in power wants this windfall or unexpected tax or revenue to be paid immediately to assist in balancing its current budget or to lower its deficit.

The Canadians who have built up a prosperous and well-run business in Canada are naturally proud of it. They or their estates do not want to sell. They have ploughed back a large proportion of the earnings left after taxes in past years, kept the plant and equipment up to date and treated their employees well. It is noted that the Report made in 1945 by the Royal Commission on the Taxation of Annuities and Family Corporations stated at page 51: "We are strongly impressed by the evidence with the value of these Private Companies in the Canadian economy".

Death Duties

When the main shareholders of a successful Canadian-owned business who have built it up, grow old, the business is often sold either to large foreign-controlled corporations or

:o a large Canadian amalgamation. The most important cause of this trend is the pressure of looming death duties.

Most such Canadian people or businesses regret the need for this and would prefer to carry on as before as well as to protect the jobs of their faithful key employees who have helped to build up the successful business; but often the necessity for finding the sum due as death duties within six months of the death of a large shareholder forces a sale. It is common knowledge that, on a sellout to a new owner, most of the key employees are replaced, no matter what precautions may be taken. If the founder or builder or his successor in this successful industry dies unexpectedly before he has sold his business, government steps in and under its legislation, values everything the deceased owned under the valuation provisions of the legislation, with payment to be made within six months, after which a penalty is imposed for late payment. What can the executors do for cash to pay the heavy duty on this one asset the estate owns (namely, the equity in the business)? Its valuation is made as of the date of death, on the last stock market quotation or on the company's present worth, based on past earnings, which will usually be considerably above any quick sale value. Often the estate has to sell for what it can get on a liquidation auction sale basis. It is very difficult, if not impossible, for the estate to obtain enough money in only six months' time, to pay the tax without paying very high rates or giving up control of the business.

Granted the wife and any dependents may be able to live fairly comfortably on what is left, nevertheless the team is broken, the spirit is gone and the business is owned by outside interests or it disappears. Further, the spirit to expand or further build something new by Canadians is, to say the least, not encouraged.

It therefore seems desirable that the federal and the provincial authorities should by some method relieve the sudden, stupefying impact of estate taxes and succession duties on the estate of the principal owners of the equities in these small Canadian independent businesses. If they do not give some relief, such businesses or companies as described will continue to be sold to foreigners or large corporations or will continue to disappear. If the government or its advisers do not realize that this is inevitable, they are not in touch with what is going on in Canada or prefer to ignore the situation. If we keep on the way we are going, then it has been estimated that the successful smaller Canadian-owned businesses will disappear within 100 years or even less. Even Russia appears to recognize this fact in some ways and could, through control of foreign corporate set-ups, be actually acquiring control of some of our businesses in Canada.

It is of course realized that the government requires taxes, but should not a government take a longer view of the inevitable outcome of its taxation methods? Those who have the courage and ability to become politicians compete with one another in promising us (the gullible electors) something that apparently the politicians in their wisdom think we should have and this even before the government has collected enough money to pay for same. The capable and dedicated civil servant must draw up our laws or find a new way to raise the taxes to pay for the unasked-for but often welcome promises of our politicians. Hence our present Estate Tax and Succession Duty laws, etc. With the greatest respect and admiration for anyone who has the courage to go into politics and for our capable civil servants, it is suggested that very few of either of these groups are the type of persons who have actually built a successful flourishing Canadian-owned industry or had much to do with trying to settle death duties

or find money to pay death taxes in an attempt to save a Canadian-owned business from being liquidated. It is submitted that, if we are honest, most politicians, civil servants and perhaps the majority of us electors will admit to being envious of the successful businessman; so successful Canadian-owned businesses seem to have at least two strikes against them before they go to bat in this welfare state. We must have revenue to pay Canada's ever-expanding expenses, and estate tax and succession duty seem to be a very fair method of obtaining it. But let us impose these taxes in a fair way so that Canadian owners of these industries are at least given a chance to pay the tax and yet try to retain ownership in Canada.

The solution to this problem is not too clear, but it does seem obvious that the inevitable but unexpected windfalls accruing to the government when deaths take place would be larger in the future and would occur more often if ownership of such businesses was retained in Canada instead of passing to foreign companies or large amalgamations--which do not die or pay death duties.

It took at least one or perhaps several lifetimes to build the smaller Canadian-owned industry, so on the death of a shareholder or owner, with our present high estate tax and succession duty, why should the government not allow the tax to be paid on, say, at least a six-year basis? The following proposals give a breathing space and seem fair:

(1) At least six years should be given an estate in which to pay the duties with interest at, say, 4% per annum but only starting after the first year after death, the government keeping a lien on sufficient assets. However, to encourage pre-payment of duties before six years and keep control in Canada, a discount on death taxes could be given to the estate of say twenty per cent (20%), similar to the discount for income tax on Canadian dividends, for any amounts paid before due but only if the asset is sold or transferred and retained by Canadians for

the balance of the six year period--the government retaining a lien on the asset until the six year period has expired.

(2) Another possible solution would be to borrow an idea from the United States and at the same time adopt a part of the law contained in the Civil Code of the Province of Quebec, namely:- That every taxpayer has the right to leave one-half of his or her estate free of tax or duty to his or her spouse. In general this would merely postpone the collection of tax until the death of the survivor, but it has important side effects with respect to the rate of duty. This, along with more time than the six months in which to pay the tax or duty, plus some discount for prepayment, might encourage the heirs to take steps to retain the business.

Some such scheme would give time for the remainder of the family or group to try and organize some method of keeping control in Canada and encourage the Canadian-owned control to keep on with the expanding business. The executors could, over the reasonable time suggested, gradually liquidate to the remainder of the family or group, or other Canadians such as employees, some of the interest owned by the deceased so that the executors could pay the taxes imposed at death and yet have control retained in Canada. It at least gives the owners or the executors a chance, which they do not have at present, to refrain from liquidating the whole business at a loss to foreign corporations or a large Canadian amalgamation.

The question is asked - what is the use of having a Combines Act which can and has prohibited further expansion of already large Canadian amalgamations when, at the same time, by taxation (death duties), the Governments leave no other alternative to the estate of a deceased except liquidation or sellout to a foreign corporation.

October 10, 1962. G. F. Maclaren, Q.C.